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PETITIONER IN PRO PER

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

Charles Fordjour,) N: CV 08-03162-MMC

Petitioner/Appellant

VS

Robert Mueller, III - Director
of FBI, et al.
ET AL

Respondents/Appellees

"EMERGENCY MOTION
FOR CHANGE OF VENUE,
TRANSFER OF CASE
AND CHALLENGE AND
OBJECTION TO -
IMPROPER CASE
TRANSFER FROM
UNITED STATES DISTRICT
COURT, EASTERN DISTRICT
OF CALIFORNIA IN
VIOLATIONS OF 28 U.S.C.
§ 1631 AND 28 U.S.C. §
1406(a) AND RULE 72
(a)(b), F.R.C.P. APPEAL"

MOTION FOR LEAVE TO FILE "

(1)

Pursuant to Rule 6, FRCP, FRAP 27,
 28 U.S.C. § 1631, 28 U.S.C. § 1406 (a),
 and Rule 72 (a) (6), Federal Rules of Civil
 Procedure, including Rules governing Actions
 28 U.S.C. § 2241 et seq., petitioner
 Forjourn hereby moves, Requests and Motions
 for Emergency Change of Venue and -
 Transfer of Case to United States
 District Court, Eastern District of California
 in Fresno, California on Emergency Basis.

This Emergency Motion is supported by
 the Attached Memorandum of Points and
 Authorities, Full Record, and any present and
 Future Oral Arguments, Subpoenaed witnesses
 and Testimonies, Evidentiary Hearing and
 proceedings in this pending case.

MEMORANDUM OF POINTS AND AUTHORITIES:

LEGAL STANDARDS: Serious Legal issues, questions
 of Law are review de novo. See United States
v. McConney, 728 F.2d 1195, 1201 (9th Cir. 1984) (en banc)
 cert. denied, 469 U.S. 824, 83 L.Ed.2d 46, 105
 S.Ct. 101 (1984); Braden v. 30th Judicial Circuit
Court of Kentucky, 410 U.S. 484, 93 S.Ct. 1123,
 35 L.Ed. 443 (1973); United States v. Motamed,
 767 F.2d 1403, 1405 (9th Cir. 1985) (Affirmal
 defendant); See also other cases cited herein

1 In 2004, the Supreme Court endorsed the -
 2 "district of confinement" [r]ule, stating that
 3 "[t]he plain language of [28 U.S.C. 2241(a)] -
 4 confirms the general rule that for core habeas
 5 petitions challenging present physical confinement,
 6 Jurisdiction lies in only one district: the district
 7 of Confinement." Pedilla v. Rumsfeld, 542 U.S.
 8 426, 443, 124 S.Ct. 2711, 159 L.Ed.2d 513 (2004).
 9 Braden v. 30th Judicial Circuit Court of Kentucky,
 10 410 U.S. 484, 93 S.Ct. 1123, 35 L.Ed.2d 443 (1973),
 11 which held that traditional venue considerations
 12 apply to habeas petitions. As one court has noted,
 13 "Supreme Court precedent [set forth in Braden]
 14 establishes that traditional venue doctrines are
 15 fully applicable" to Habeas petitions brought
 16 pursuant to 28 U.S.C. Section 2241. See case
 17 Henderson v. I.N.S., 157 F.3d 106, 127 (2d Cir. 1998).
 18 Traditional venue considerations include, but
 19 are not limited to, where (1) "the material
 20 events took place," (2) where the "records and
 21 witnesses pertinent to petitioner's claim are
 22 likely to be found," and (3) whether the forum
 23 is convenient for the parties. Braden 410 U.S.
 24 484, 493-94, 93 S.Ct. 1123, 35 L.Ed.2d 443.

25 As to Transfer, 28 U.S.C. § Section 1406(a)
 26 sets forth that "[t]he district court of a district
 27 in which is filed a case laying venue in the
 28 wrong district shall dismiss, or if it be in the
 (3)

1 interest of justice, transfer such case to any
 2 district in which it could have been brought
 3 28 U.S.C. § 1406(a). In Addition, 28 U.S.C.
 4 Section 1631, explains that "[W]henver a
 5 civil action is filed ... and th[e] court finds
 6 that there is a want of jurisdiction, the court -
 7 shall, if it is in the interest of justice,
 8 transfer such action ... to any other such
 9 court in which the action could have
 10 been brought at the time it was filed or
 11 noticed " 28 U.S.C. § 1631.

12 13 SERIOUS LEGAL ISSUES AND QUESTIONS:

14 A: "District of confinement Rule":

15 Good Cause Exists, for this district
 16 court to mandatory transfer and change
 17 venue to United States District Court,
 18 Eastern District of California, Fresno, California
 19 to prevent manifest injustice.

20
 21 petitioner Fordjour filed his petition
 22 pursuant to 28 U.S.C. § 2241 challenging his
 23 pre-trial Custody confinement in Kings
 24 County Jail, Hanford, California and seeking
 25 TRO / preliminary Injunction Against Respondents
 26 and Enjoinment of Kings County Superior
 27 Court case No 07CM9015/07M0043.
 28

1 petitioner is not attacking his case in
 2 Santa Clara County Superior Court as improperly
 3 held by Magistrate Judge Theresa A.
 4 Goldner. This case has nothing to
 5 do with Santa Clara County Superior Court
 6 case which has been overturned and
 7 Reversed. There is nothing been changed
 8 in that case 197498 and therefore it
 9 was improper and extreme prejudicial
 10 and constitute obstruction of Justice for
 11 the Assigned Magistrate Judge to transfer
 12 case from United States District Court
 13 Eastern District of California, to United
 14 States District Court, Northern District of California.
 15 All witnesses and Evidences are located
 16 in the United States District Court, Eastern
 17 District of California Jurisdiction and there
 18 it is improper to transfer or change venue
 19 when petitioner is Attacking his Pre-trial
 20 Custody Status and other Redress against
 21 Respondents in Kings County and Eastern
 22 District of California Jurisdiction.
 23

24 petitioner move and motions this
 25 court on Emergency Basis for a court
 26 order transferring petition for writ of Habeas
 27 corpus, 28 U.S.C.S 2241 and granting THO/
 28 Injunction including enjoinder of state proceeding

1 B: TIMELY APPEAL BEFORE ASSIGNED UNITED
 2 STATES DISTRICT COURT JUDGE, EASTERN
 3 DISTRICT OF CALIFORNIA PURSUANT TO
 4 RULE 59(c), Rule 60(c)(1-6), Rule 72(a)(6), FRCP.

5 This petition for writ of Habeas Corpus was
 6 properly randomly Assigned to Hon. Judge
 7 Anthony W. Ishii as the Assigned District
 8 Court Judge. Petitioner Fordjour specifically
 9 signed a Decline NOT to contest to
 10 Magistrate Judge Theresa A. Goldner as
 11 the Assigned Judge within 30 (thirty) days
 12 of filing the petition pursuant to 28 U.S.C. 2241.
 13 Petitioner Fordjour timely filed objections and
 14 challenged to the Magistrate Judge Theresa A.
 15 Goldner court order dated June 19, 2008
 16 on the same day and filed said objections
 17 within Ten (10) Days. Under Rule 72(a)(6),
 18 Federal Rules of Civil procedure. Traditional
 19 practice in United States District Court, Eastern
 20 District of California, Fresno, California is to
 21 allow for Thirty (30) days on Magistrate's
 22 Findings and Recommendations. Petitioner's
 23 Appeal is still pending and grave
 24 Injustice and deprivation of petitioner's
 25 substantial rights have occurred in violation
 26 of his 4th, 5th, 6th, 8th and 14th Amendments
 27 of the United States Constitution.
 28 (6)

1 In the Interest of Justice, this court must
 2 transfer and change venue to the United States
 3 District Court, Eastern District of California. See
 4 Miller v Hambrick, 905 F.2d 259, 262 (9th Cir. 1990),
 5 (quoting Goldlawr v. Heiman, 369 U.S. 463, 467, 82
 6 S. Ct. 913, 8 L. Ed. 2d 39 (1962)) (dismissing transfer -
 7 under 28 U.S.C. § 1631, which has the same interest
 8 of justice requirement as 28 U.S.C. § 1406 (a).
 9 It is in the interest of this court to transfer
 10 this case to United States District Court, Eastern
 11 District of California. See Ceb Tenreiro v. Ashcroft,
 12 2004 U.S. Dist. LEXIS 14005 (E.D. on July 12, 2004),
 13 (quoting Roman v. Ashcroft, 340 F.3d 314, 328 -
 14 29 (6th Cir. 2003); see 28 U.S.C. § 1631,
 15 28 U.S.C. § 1406 (a).

16 WHEREFORE, petitioner prays that in Good
 17 Faith and in the Interest of Justice his -
 18 Emergency motion be granted in its Entirety
 19 to prevent Miscarriage of Justice and this court
 20 should change venue and transfer this case.
 21

22 Further this court should grant Any
 23 other Relief that petitioner is entitled to
 24 as Law and Justice requires and in the
 25 interest of comity and to prevent Extreme
 26 prejudice and Obstruction of Justice at all times.
 27 Respectfully, Submitted this 8th day of July, 2008.

28 By: Charles Fordpour
 CHARLES FORDPOUR - petitioner in pro per
 CC: Clerk, U.S. District Court, Northern District
 450 Golden Gate Avenue
 San Francisco, CA 94102 (7) By [Signature]

Tronally filed

CHARLES FORSTOUR
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PETITIONER IN PROPER

TRANSFER CASE BACK
TO US District Court,
Eastern District of California
pursuant to 28 U.S.C. 1631
and 28 U.S.C. 1406(a).

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

Charles A. Forstour

Plaintiff,

vs.

Robert Mueller, III - Director of FBI
ET AL

Defendant(s)

U.S. District Court, Eastern District of
California case no 1:08-cv-00731 AM/TAG/KC

CASE NO. CV 08-3162 MMC

"MOTION FOR LEAVE TO FILE"

PRISONER'S

APPLICATION TO PROCEED
IN FORMA PAUPERIS

"PROPER VENUE LIES IN
U.S. DISTRICT COURT, Eastern District
of California" - TRANSFER CASE

I, Charles Forstour, declare, under penalty of perjury that I am the
plaintiff in the above entitled case and that the information I offer throughout this application
is true and correct. I offer this application in support of my request to proceed without being
required to prepay the full amount of fees, costs or give security. I state that because of my
poverty I am unable to pay the costs of this action or give security, and that I believe that I am
entitled to relief.

In support of this application, I provide the following information:

1. Are you presently employed? Yes ___ No X

If your answer is "yes," state both your gross and net salary or wages per month, and give the
name and address of your employer:

Gross: N/A Net: N/A

Employer: N/A

N/A

District of Confinement Rule. See Padilla v. Rumsfeld, 542
U.S. 426, 443, 124 S.Ct. 2711, 159 L.Ed.2d 513 (2004)

1 If the answer is "no," state the date of last employment and the amount of the gross and net
 2 salary and wages per month which you received. (If you are imprisoned, specify the last
 3 place of employment prior to imprisonment.)

4 N/A
 5 N/A
 6 N/A

7 2. Have you received, within the past twelve (12) months, any money from any of the
 8 following sources:

- 9 a. Business, Profession or Yes ___ No X
 10 self employment
- 11 b. Income from stocks, bonds, Yes ___ No X
 12 or royalties?
- 13 c. Rent payments? Yes ___ No X
- 14 d. Pensions, annuities, or Yes ___ No X
 15 life insurance payments?
- 16 e. Federal or State welfare payments, Yes ___ No unk
 17 Social Security or other govern-
 18 ment source?

19 If the answer is "yes" to any of the above, describe each source of money and state the amount
 20 received from each.

21 unknown (base on dependent)
 22

23 3. Are you married? But Decord Yes X No ___

24 Spouse's Full Name: Decord 12/2004

25 Spouse's Place of Employment: N/A

26 Spouse's Monthly Salary, Wages or Income:

27 Gross \$ N/A Net \$ N/A

28 4. a. List amount you contribute to your spouse's support: \$ N/A

- b. List the persons other than your spouse who are dependent upon you for support and indicate how much you contribute toward their support. (NOTE: For minor children, list only their initials and ages. DO NOT INCLUDE THEIR NAMES.).

J.P. C.J. J

5. Do you own or are you buying a home? Yes ___ No X

Estimated Market Value: \$ NA Amount of Mortgage: \$ ___

6. Do you own an automobile? Repossessed Yes X No ___

Make Dodge Durango Year 2006 Model Durango

Is it financed? Yes X No ___ If so, Total due: \$ \$25 K

Monthly Payment: \$ 800.00

7. Do you have a bank account? Yes X No ___ (Do not include account numbers.)

Name(s) and address(es) of bank: Patelco Credit Union
San Francisco, CA

Present balance(s): \$ 200 or less

Do you own any cash? Yes X No ___ Amount: \$ ___

Do you have any other assets? (If "yes," provide a description of each asset and its estimated market value.) Yes X No ___

8. In debt or Borrowed/credit card What are your monthly expenses? for dependents/family expenses unk

Rent: \$ -1600.00 (dependents) Utilities: -1400

Food: \$ -2000.00 Clothing: -800

Charge Accounts: LOFF - All credits due to unlawful confinement
kidnapping, Entrapment

Name of Account	Monthly Payment	Total Owed on This Acct.
<u>Vita</u>	<u>\$ charge off</u>	<u>\$ unk</u>
<u>Mothercard</u>	<u>\$ charge off</u>	<u>\$ unk</u>
<u>Alison etc</u>	<u>\$ charge off</u>	<u>\$ unk</u>

LOFF all credit due to unlawful incarceration
in constitutional confinement, kidnapping, Entrapment

1 9. Do you have any other debts? (List current obligations, indicating amounts and to
2 whom they are payable. Do not include account numbers.)

3 Repayment → - \$ 100,000 (mortgage)
4 Loans / debts / support - \$ 85K (mortgage)

5 10. Does the complaint which you are seeking to file raise claims that have been presented
6 in other lawsuits? Yes No X (petition for writ of Habeas Corpus
7 20 U.S.C. § 2241).

8 Please list the case name(s) and number(s) of the prior lawsuit(s), and the name of the court in
9 which they were filed.

10 N/A
N/A

11 I consent to prison officials withdrawing from my trust account and paying to the court
12 the initial partial filing fee and all installment payments required by the court.

13 I declare under the penalty of perjury that the foregoing is true and correct and
14 understand that a false statement herein may result in the dismissal of my claims.

15 July 08, 2008

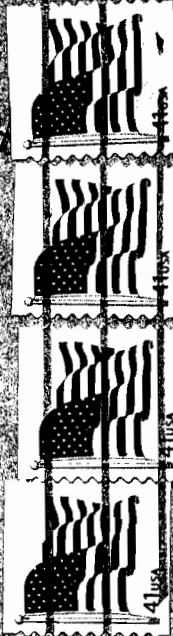
16 DATE

17 

18 SIGNATURE OF APPLICANT

37666 2008

Kings County Jail
P O Box 1699
Hanford, CA 93230



Attn: Richard W. Wiekong, Clerk
The Clerk of the Court
United States District Court
Northern District of California
450 Golden Gate Avenue
San Francisco, California 94102
CA 94102

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Received July 08, 2008

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